IN THE HIGH COURT OF JUDICATURE

ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE J.CHELAMESWAR

and
THE HON'BLE MR JUSTICE M.VENKATESWARA REDDY

WRIT PETITION NO : 21210 of 2005

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Dated: 29th September 2005.

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Between:

M/s Sheetal Regineries Pvt. Ltd.

..... PETITIONER

AND

Additional Commissioner (CT) (Legal) and others

.....RESPONDENTS

THE HON'BLE SRI JUSTICE J.CHELAMESWAR

AND

THE HON'BLE SRI JUSTICE M.VENKATESWARA REDDY

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W.P.NO.21210 OF 2005

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ORAL ORDER:

(Per the Hon'ble Sri Justice J.Chelameswar)

The petitioner is a Private Limited Company, carrying on business in manufacture and sale of edible oils. For the assessment year 2001-02, the petitioner declared a net turnover of Rs.22,93,418/- after claiming exemption over a turnover of Rs.12.00 crores on various grounds, the details of which may not be necessary for the purpose of this writ petition. The 3rd respondent accepted the tax-returns of the petitioner and levied sales tax @ 4 % on the taxable turnover, by order dated 29th January 2003. The 2nd respondent herein, however, initiated proceedings under Section 14(4) of the APGST Act r/w Section 9(2) of the CST Act, proposing to withdraw the exemption granted on a turnover of Rs.6,26,12,480/-, and after an opportunity to the petitioner, revised the earlier assessment order and treated the abovementioned amount as an amount not entitled for any exemption. Ultimately, the 2nd respondent came to the conclusion that the petitioner is liable to pay an amount of Rs.62,61,242/- towards tax.

Aggrieved by the said order, it appears, the petitioner preferred an appeal before the A.P. Sales Tax Tribunal. Along with the appeal, the petitioner preferred an application praying that the collection of the tax, pursuant to the revised assessment order, be stayed, which application was rejected by the 1st respondent by order dated 21st September 2005 and hence, the present writ petition.

Heard the learned counsel for the petitioner and the learned Government Pleader for Commercial Tax.

In view of the pendency of the appeal before the Tribunal, we deem it appropriate to dispose of the writ petition at the stage of admission directing stay of recovery of the tax pursuant to the revised assessment order dated 23rd June 2005 of the 2nd respondent herein, subject to the condition of the petitioner paying 50% of the demanded tax within a period of eight weeks from today in two equal installments. The first installment shall be paid on or before 3rd November 2005 and the second and final installment shall be paid on or before 1st December 2005. The amounts already paid, if any, pursuant to the revised assessment shall be given credit to for the purpose of computing the abovementioned 50% of the tax.

J.Chelameswar, J

M.Venkateswara Reddy, J

29th September 2005

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